

REMARKS

Reconsideration of the present application in view of the above amendments and following remarks is respectfully requested.

Status of the Claims

Claims 12-14, 17-20 and 23-33 are presented. Claims 12, 18, 26 and 29-31 are amended. Claims 12 and 18 are amended to emphasize the increased foam stability. Support is found throughout the specification as originally filed. Claims 26 and 29-31 are amended for clarity. Support is found throughout the specification as originally filed. No claims are cancelled. New claims 32-33 are added. Support is found in the specification as originally filed on page 5, lines 7-11.

No new matter has been introduced.

Summary of the Invention as Claimed

As presently amended, pending claims 12 – 14, 17, 24, 26 – 28 and 32 are directed to cosmetic and/or pharmaceutical compositions. The compositions of these claims comprise, in addition to an alkyl and/or alkenyl oligoglycoside (component (a)), at least one dicarboxylic acid C6-22 monoester or salt thereof as anionic surfactant (component (b)). An important and unexpected advantage of certain aspects of the compositions as now claimed is that the composition exhibits increased foam stability and reduced irritation as compared with component (a) alone.

As presently amended, pending claims 18 – 20, 23, 25, 29 – 31 and 33 are directed to processes for enhancing the dermatological and ophthalmic mucous membrane compatibility of a cosmetic and/or pharmaceutical composition comprising adding to the composition an effective amount of a composition which comprises, in addition to an alkyl and/or alkenyl oligoglycoside, at least one dicarboxylic acid C6-22 monoester or salt thereof as anionic surfactant. An important and unexpected advantage of certain aspects of

the processes as now claimed is that the composition exhibits increased foam stability and reduced irritation as compared with component (a) alone.

Rejections under 35 U.S.C. § 103(a)

Claims 12-14, 17-20 and 23-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wevers, et al. (US 4,714,565; "Wevers") in view of Wulff, et al. (US 5,859,218; "Wulff"), or vice-versa. Applicants respectfully traverse these rejections.

Wevers discloses concentrated heavy duty detergent compositions containing (a) 10-50% of a mixture of anionic and nonionic surfactants, wherein the nonionic surfactant is at least 5% of the total composition, (b) less than 50% water, and (c) 2-50% of a dicarboxylic acid C8-20 monoester.

Wevers specifically teaches that the nonionic surfactant components of his invention are **ethoxylated**:

"The nonionic surfactant components contain a hydrophobic organic radical **condensed with an ethylene oxide hydrophilic moiety**. All **ethoxylated** nonionic surfactants which are known to be suitable for use in detergent application can be used in the composition of this invention. Preferred nonionic species herein are **polyethoxylates** derived from primary and secondary aliphatic alcohols having from 8-24 carbon atoms...." (column 3, lines 1-8; emphasis added)

Lines 15 – 54 further describe preferred nonionic ethoxylates. Also, the Examples specify the ethoxylated nonionic surfactant C₁₃₋₁₅ EO7 (Tables).

As acknowledged by the Examiner, Wevers does not teach applicants' alkyl/alkenyl oligoglycosides (APGs). In order to cure this deficiency, the Examiner joined Wulff.

The Examiner relies on Wulff for its disclosure of a process for preparing alkyl polyglycosides, and a variety of applications for the alkyl polyglycosides prepared by the disclosed method as indicated by the Examples. However, Wulff provides no teaching, suggestion or motivation for the skilled artisan to equate ethoxylated nonionic surfactants with APGs. Even if the Examiner were correct

in her characterization of Wulff as overcoming the deficiencies of Wevers with respect to the oligoglycosides, which applicants do not concede, there is nothing in Wulff to suggest the claimed combination of the specified alkyl and/or alkenyl oligoglycoside and at least one dicarboxylic acid C6-22 monoester or salt thereof.

Further, alkyl/alkenyl oligoglycosides (APGs) produce less stable foams than typical anionic surfactants, e.g., alkyl ether sulfates (specification, *inter alia*, page 1, lines 14-15, 25-26; Table 1, foam height after 20 mins.). In addition, there is no teaching, suggestion, or motivation in either Wevers or Wulff regarding **foam stabilization** with monoesters of diacids, as claimed by applicants. Instead Wevers teaches that the dicarboxylic acid monoesters of his detergent concentrate compositions actually act as specialized hydrotropes, which are required because “conventional hydrotropes are not suitable in compositions containing less than 50% water” (column 1, lines 26-27). In a further point of distinction, new claims 32-33 emphasize that the active substance content of applicants’ inventive compositions is at most 50%, thereby the aqueous component is 50% or greater (specification, page 5, lines 7-11). Thus one skilled in the art at the time of the invention reading Wevers and Wulff would not be motivated to apply Wever’s specialized hydrotropes for heavy duty detergent concentrates (<50% water) to cosmetic compositions having a water content of 50% or greater as a foam stabilizer.

Finally, Wevers is directed to heavy duty concentrated detergent applications. There is no indication in Wevers that his compositions are useful in applications where less aggressive skin-compatible emulsifiers are required, as in the cosmetic and pharmaceutical fields. Applicants specifically require, and claim, that their dicarboxylic acid monoester component (b) be compatible with sensitive mucous membranes, and that the composition comprising (b) show reduced irritation as compared with component (a) alone. Although Wulff discloses a range of applications for the alkyl polyglycoside surfactants prepared

by the claimed method, one skilled in the art at the time of the invention reading Wevers in view of Wulff, or vice versa, would not be led to combine the dicarboxylic acid monoesters of Wevers with the alkyl polyglycosides of Wulff for cosmetic and/or pharmaceutical compositions. One would not look to the field of heavy duty detergent concentrates to arrive at a cosmetic composition.

Thus one skilled in the art would not be motivated to combine Wevers and Wulff without the benefit of applicants' disclosure. Therefore applicants' compositions and methods are distinguished over the cited art, and the obviousness rejections cannot stand.

Conclusion

In summary, in view of the above claim amendments and remarks, applicants believe that all of the presently amended claims are in condition for allowance or appeal. The Examiner is respectfully requested to enter the amendments, reconsider, withdraw the rejections and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

July 17, 2009

/Robert N. Henrie II/

Robert N. Henrie II
Reg. No. 60,851
Fox Rothschild LLP
2000 Market Street; Tenth Floor
Philadelphia, PA 19103-3291

Tele: (215) 299-2000
Fax: (215) 299-2150